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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,637	09/08/2003	David K. Haller	C-501/TEC1210-01	2815

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EXAMINER

TRIEU, THERESA

ART UNIT	PAPER NUMBER
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3748

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,637

Applicant(s)

HALLER ET AL.

Examiner

Theresa Trieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 14-17 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 is/are allowed.
- 6) ☒ Claim(s) 9 and 11-13 is/are rejected.
- 7) ☒ Claim(s) 6-8 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>08/30/04, 05/28/04, 09/08/03.</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is responsive to the applicants' election filed on April 7, 2005.

Election/Restrictions

1. Applicants' election of species of Figs. 1-7 filed on April 7, 2005 is acknowledged, claims 1-13 being readable thereon. Because applicants did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 14-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species. Overall, claims 14-17 are pending in this application.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "first bearing surface, a second bearing surface" recited in claims 2, 6 and 9.

Claim Objections

3. Claims 6-8 are objected to, in that their subject matter (i.e. first and second bearing surfaces) need to be incorporated into the specification and the drawings. Otherwise, the language not depicted with reference numerals in the specification and contained in the drawings should be removed from the claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. *Claims 9 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tark et al. (Tark) (Patent Number 5,720,601 in view of Shimada et al. (Shimada) (Publication Number JP 2000-329083).*

Regarding claims 9 and 11, as shown in Fig. 4, Tark discloses a compressor comprising: a discharge chamber (32) disposed within the compressor; a discharge passage (33) extending through the first base plate at a first location wherein the first base plate (31) has a first thickness; a recess (not numbered; however, clearly seen in Fig. 4) defined by the rear face of the first base plate, the outlet opening (not numbered; however, clearly seen in Fig. 4) disposed within the

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recess; a substantially planar flexible valve member (34) disposed within the recess and sealingly engageable with the outlet opening; and a clamping member (39) disposed within the recess and having first and second bearing surfaces (not numbered; however, clearly seen in Fig. 4) and a central span portion (not numbered; however, clearly seen in Fig. 4) disposed therebetween, the first bearing surface engaged with the rear face and the second bearing surface securing the flexible valve member (34) against the rear face, the central span portion spaced from the rear face, the clamping member (39) attached to the first base plate at a second location wherein the first base plate has a second thickness greater than the first thickness; a valve retaining member (36) disposed adjacent the valve member and limiting movement of the valve member away from the outlet opening. However, Tark fails to disclose the hermetic compressor being a scroll compressor.

As shown in Figs. 1 and 2, Shimada teaches that it is conventional in the compressor art to utilize a first/second scroll members (4, 6) having first and second base plates (4a, 6a) with a front face and an opposite rear face and first/second spiral wraps (4b, 6b) extending from the front face of the first base plate the second base plate; the first and second scroll members relatively moveably engaged wherein relative movement of the scroll members compresses a gas in a working space defined by and disposed between the first and second scroll members; a discharge chamber (17) disposed within the compressor; a discharge passage (16) extending through the first base plate (4a) at a first location wherein the first base plate has a first thickness (see Figs 1 and 2), the discharge passage having an inlet opening (16a) in the front face in gaseous communication with the working space and an outlet opening (16) in the rear face in gaseous communication with the discharge chamber (17). It would have been obvious to one

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having ordinary skill in the art at the time the invention was made, to have utilized the hermetic compressor as scroll compressor as taught by Shimada in the Tark device since both types of compressor are shown to be conventionally utilized to compress a fluid.

Regarding claims 12 and 13, Tark further discloses the valve member (34) has a length and a width, the length being substantially greater than the width (see Fig. 7), the width of the valve member being greater than a corresponding dimension of the outlet opening, the valve member (34) having a lengthwise axis wherein the clamping member engages the valve member proximate a first axial end of the valve member, the valve member sealingly engageable with the outlet opening proximate a second axial end of the valve member; the recess including sidewalls limiting movement of the valve member perpendicular to the lengthwise axis wherein the valve member remains sealingly engageable with the outlet opening when the valve member is displaced perpendicular to the lengthwise axis and engaged with one of the sidewalls; the outlet (not numbered; however, clearly seen in Fig. 4) opening having a generally circular configuration.

Allowable Subject Matter

5. Claims 1-5 are allowed.
6. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art

The IDS (PTO-1449) filed on August 30, 2004, May 28, 2004 and September 8, 2003 has been considered. An initialized copy is attached hereto.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of six patents: Yoon (U.S. Patent Number 5,577,901), Park et al. (U.S. Patent Number 5,676,533), Rene et al. (U.S. Patent Number 6,012,489), Brabek et al. (U.S. Patent Number 6,314,990), Takano (Publication Number JP 03-255280), and Taruya et al. (Publication Number JP 10-231783), each further discloses a state of the art.

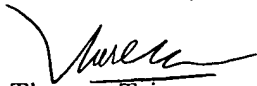
Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm. The new telephone number is 571-272-4868 that will become effective after November 22, 2004.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The new telephone number is 571-272-4859 that will become effective after November 22, 2004. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TT



Theresa Trieu
Primary Examiner
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